



*Commonwealth of Virginia*

***VIRGINIA DEPARTMENT OF ENVIRONMENTAL QUALITY***

PIEDMONT REGIONAL OFFICE  
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Matthew J. Strickler  
Secretary of Natural Resources

David K. Paylor  
Director  
(804) 698-4000

James Golden  
Regional Director

**STATE WATER CONTROL BOARD  
ENFORCEMENT ACTION - ORDER BY CONSENT  
ISSUED TO**

**Hopson, L.L.C.**

**FOR**

**Walnut Creek**

**Virginia Pollutant Discharge Elimination System Permit No. VAR10E579**

**SECTION A: Purpose**

This is a Consent Order issued under the authority of Va. Code §§ 62.1-44.15, 62.1-44.15:25, and 62.1-44.15:48, between the State Water Control Board and Hopson, L.L.C.

**SECTION B: Definitions**

Unless the context clearly indicates otherwise, the following words and terms have the meaning assigned to them below:

1. "305(b) report" means the report required by Section 305(b) of the Clean Water Act (33 United States Code § 1315(b)), and Va. Code § 62.1-44.19:5 for providing Congress and the public an accurate and comprehensive assessment of the quality of State surface waters.
2. "2014 Permit" means the General VPDES Permit for Discharges of Stormwater from Construction Activities, No. VAR10, promulgated at 9 VAC 25-880-70, which was issued under the State Water Control Law, the VSMP Regulations, and the General Permit Regulation on July 1, 2014 and which expired on June 30, 2019.

3. "2019 Permit" means the General VPDES Permit for Discharges of Stormwater from Construction Activities, No. VAR10, promulgated at 9 VAC 25-880-70, which was issued under the State Water Control Law, the VSMP Regulations, and the General Permit Regulation on July 1, 2019 and which expires on June 30, 2024.
4. "Board" means the State Water Control Board, a permanent citizens' board of the Commonwealth of Virginia, as described in Va. Code §§ 10.1-1184 and 62.1-44.7.
5. "Construction activity" means any clearing, grading or excavation resulting in land disturbance of equal to or greater than one acre, or disturbance of less than one acre of total land area that is part of a larger common plan of development or sale if the larger common plan will ultimately disturb equal to or greater than one acre.
6. "Department" or "DEQ" means the Department of Environmental Quality, an agency of the Commonwealth of Virginia, as described in Va. Code § 10.1-1183.
7. "Director" means the Director of the Department of Environmental Quality, as described in Va. Code § 10.1-1185.
8. "Facility" or "Site" means the Walnut Creek construction project located off Walnut Tree Lane in Powhatan County, Virginia, from which discharges of stormwater associated with construction activity occur.
9. "General Permit Regulation" means the General VPDES Permit for Discharges of Stormwater from Construction Activities, 9 VAC 25-880-1 et seq.
10. "Hopson" means Hopson, L.L.C., a company authorized to do business in Virginia and its affiliates, partners, and subsidiaries. Hopson is a "person" within the meaning of Va. Code § 62.1-44.3. The 2014 Permit, 2019 Permit, and June 14, 2019 Notice of Violation indicated the responsible party was "Hobson LLC" and not Hopson, L.L.C. The use of "Hobson LLC" was due to a typographic error in DEQ's *Stormwater Construction General Permit System* and has been corrected.
11. "Land disturbance" or "land-disturbing activity" means a man-made change to the land surface that potentially changes its runoff characteristics including clearing, grading, or excavation, except that the term shall not include those exemptions specified in Va. Code § 62.1-44.15:34.
12. "Notice of Violation" or "NOV" means a type of Notice of Alleged Violation under Va. Code § 62.1-44.15.
13. "Order" means this document, also known as a "Consent Order" or "Order by Consent," a type of Special Order under the State Water Control Law.
14. "PRO" means the Piedmont Regional Office of DEQ, located in Glen Allen, Virginia.

15. "State Water Control Law" means Chapter 3.1 (§ 62.1-44.2 et seq.) of Title 62.1 of the Va. Code.
16. "State Waters" means all water, on the surface and under the ground, wholly or partially within or bordering the Commonwealth or within its jurisdiction, including wetlands. Va. Code § 62.1-44.3.
17. "Stormwater" means precipitation that is discharged across the land surface or through conveyances to one or more waterways and that may include stormwater runoff, snow melt runoff, and surface runoff and drainage. Va. Code § 62.1-44.15:24.
18. "Stormwater management plan" means a document or series of documents containing material describing methods for complying with the requirements of a VSMP or the VSMP Regulations. 9 VAC 25-870-10.
19. "SWPPP" means Stormwater Pollution Prevention Plan, which is a document that is prepared in accordance with good engineering practices and that identifies potential sources of pollutants that may reasonably be expected to affect the quality of stormwater discharges. A SWPPP required under a VSMP for construction activities shall identify and require the implementation of control measures, and shall include, but not be limited to the inclusion of, or the incorporation by reference of an approved erosion and sediment control plan, an approved stormwater management plan, and a pollution prevention plan. 9 VAC 25-870-10.
20. "Virginia Stormwater Management Act" means Article 2.3 (§ 62.1-44.15:24 et seq.) of Chapter 3.1 of Title 62.1 of the Va. Code.
21. "Va. Code" means the Code of Virginia (1950), as amended.
22. "VAC" means the Virginia Administrative Code.
23. "VPDES" means Virginia Pollutant Discharge Elimination System.
24. "VSMP" means the Virginia Stormwater Management Program, which is a program approved by the Soil and Water Conservation Board after September 13, 2011, and until June 30, 2013, or the State Water Control Board on and after June 30, 2013, that has been established by a VSMP authority to manage the quality and quantity of runoff resulting from land-disturbing activities and shall include such items as local ordinances, rules, permit requirements, annual standards and specifications, policies and guidelines, technical materials, and requirements for plan review, inspection, enforcement, where authorized in this article, and evaluation consistent with the requirements of this article and associated regulations. Va. Code § 62.1-44.15:24.
25. "VSMP authority" means an authority approved by the Board after September 13, 2011, to operate a VSMP or, until such approval is given, the Department. An authority may

include a locality; state entity, including the Department; federal entity; or for linear projects subject annual standards and specifications in accordance with subsection B of § 62.1-44.15-31, electric, natural gas, and telephone utility companies, interstate and intrastate natural gas pipeline companies, railroad companies, or authorities created pursuant to § 15.2-5102. Va. Code § 62.1-44.15:24.

26. “VSMP Regulations” means the Virginia Stormwater Management Program (VSMP) Regulations, 9 VAC 25-870-10 et seq.

### **SECTION C: Findings of Fact and Conclusions of Law**

1. Hopson is the operator of the Walnut Creek construction activity located in Powhatan County, Virginia, from which stormwater associated with construction activity is discharged.
2. DEQ is the VSMP authority for the Site.
3. Hobson applied for and, on October 10, 2014, was granted coverage under the 2014 Permit, VAR10 of the General Permit Regulation. Hobson was assigned registration number VAR10E579.
4. The 2014 Permit allowed Hobson to discharge stormwater associated with construction activities from the Site to an unnamed tributary of Deep Creek, in strict compliance with the terms and conditions of the 2014 Permit. 2014 Permit coverage expired on June 30, 2019.
5. Hopson reapplied for and, on August 26, 2019, was granted continued coverage under the 2019 Permit, VAR10 of the General Permit Regulation. Hopson was reassigned registration number VAR10E579.
6. The 2019 Permit allows Hopson to discharge stormwater associated with construction activities from the Site to an unnamed tributary of Deep Creek, in strict compliance with the terms and conditions of the 2019 Permit.
7. The unnamed tributary of Deep Creek is located in the Middle James River Basin. During the 2018 305(b)/303(d) Water Quality Assessment Integrated Report, the unnamed tributary was not assessed for any designated use; therefore, the stream is considered a Category 3A waterbody. The site is located within the study area for the James River and Tributaries – Lower Piedmont Region Bacterial TMDL (EPA approval June 11, 2008, Board approval April 28, 2009). The discharge from the Site was not addressed in the TMDL.
8. The Site is located in the Chesapeake Bay watershed. The Chesapeake Bay TMDL was approved by the EPA on December 29, 2010. The TMDL allocates loads for total nitrogen, total phosphorus, and total suspended solids to protect the dissolved oxygen and submerged

aquatic vegetation criteria in the Chesapeake Bay and its tidal tributaries. The creek is intermittent; therefore it should be considered a Tier 1 water.

9. During the March 11, 2019 inspection, the notice giving contact information for public access to the SWPPP was not posted with the SWPPP at the main entrance of the Site.

2014 Permit Part II(D)(2) states: "The operator shall make the SWPPP and all amendments, modifications, and updates available upon request to the department, the VSMP authority, the EPA, the VESCP authority, local government officials, or the operator of a municipal separate storm sewer system receiving discharges from the construction activity. If an on-site location is unavailable to store the SWPPP when no personnel are present, notice of the SWPPP's location must be posted near the main entrance of the construction site."

2014 Permit Part II(D)(3) states: "The operator shall make the SWPPP available for public review in an electronic format or in hard copy. Information for public access to the SWPPP shall be posted and maintained in accordance with Part II C. If not provided electronically, public access to the SWPPP may be arranged upon request at a time and at a publicly accessible location convenient to the operator or his designee but shall be no less than once per month and shall be during normal business hours. Information not required to be contained within the SWPPP by this general permit is not required to be released."

9 VAC 25-870-54(G) states in part: "The SWPPP must be maintained at a central location onsite. If an onsite location is unavailable, notice of the SWPPP's location must be posted near the main entrance at the construction site."

10. During the March 11, 2019 inspection, it was noted that an approved pollution prevention plan was not available in the SWPPP.

2014 Permit Part II(A)(4) states in part: "The SWPPP shall include the following items:...4. Pollution prevention plan. A pollution prevention plan that addresses potential pollutant-generating activities that may reasonably be expected to affect the quality of stormwater discharges from the construction activity, including any supporting activity...."

9 VAC 25-870-54(D) states: "A pollution prevention plan that identifies potential sources of pollutants that may reasonably be expected to affect the quality of stormwater discharges from the construction site and describe control measures that will be used to minimize pollutants in stormwater discharges from the construction site must be developed before land disturbance commences."

11. During the March 11, 2019 and April 15, 2019 inspections, it was observed that SWPPP inspections were not conducted and recorded at the required frequency, the SWPPP inspections were incomplete, and the SWPPP did not contain the assigned delegation of authority information.

2014 Permit Part II(A)(7) states in part: “Stormwater pollution prevention plan contents. The SWPPP shall include the following items:...Delegation of authority. The individuals or positions with delegated authority, in accordance with Part III K, to sign inspection reports or modify the SWPPP”

2014 Permit Part II(A)(8) states “Stormwater pollution prevention plan contents. The SWPPP shall include the following items...SWPPP signature. The SWPPP shall be signed and dated in accordance with Part III K”

2014 Permit Part II(F)(3) states in part: “As part of the inspection, the qualified personnel shall: Record the date and time of the inspection....”

2014 Permit Part II(F)(4) states in part: “The inspection report and any actions taken in accordance with Part II must be retained by the operator as part of the SWPPP for at least three years...”

12. During the inspections on March 11, 2019 and April 15, 2019, it was observed that the SWPPP was not updated as required.

2014 Permit Part II(B)(4) states in part: “The operator shall update the SWPPP no later than seven days following any modification to its implementation. All modifications or updates to the SWPPP shall be noted and shall include the following items:

- a. A record of dates when:
  - (1) Major grading activities occur;
  - (2) Construction activities temporarily or permanently cease on a portion of the site; and
  - (3) Stabilization measures are initiated;
- b. Documentation of replaced or modified controls where periodic inspections or other information have indicated that the controls have been used inappropriately or incorrectly and where modified as soon as possible;
- c. Areas that have reached final stabilization and where no further SWPPP or inspection requirements apply;
- d. All properties that are no longer under the legal control of the operator and the dates on which the operator no longer had legal control over each property;
- e. The date of any prohibited discharges, the discharge volume released, and what actions were taken to minimize the impact of the release;
- f. Measures taken to prevent the reoccurrence of any prohibited discharge; and
- g. Measures taken to address any evidence identified as a result of an inspection required under Part II F...”

9 VAC 25-870-54(G) states in part: “The SWPPP shall be amended whenever there is a change in design, construction, operation, or maintenance that has a significant effect on the discharge of pollutants to state waters and that has not been previously addressed in the SWPPP. ...”

13. During the March 11, 2019, April 15, 2019, and May 28, 2019 inspections, it was observed that the Site was not stabilized as required and uncorrected severe erosion was observed on a fill slope.

2014 Permit Part II(A)(2)(c)(8) states in part: "A properly implemented erosion and sediment control plan... ensures that stabilization of disturbed areas will be initiated immediately whenever any clearing, grading, excavating, or other land-disturbing activities have been permanently ceased on any portion of the site, or temporarily ceased on any portion of the site and will not resume for a period exceeding 14 days..."

2014 Permit Part II(A)(5)(b)(1) states: "Permanent or temporary soil stabilization shall be applied to denuded areas within seven days after final grade is reached on any portion of the site."

9 VAC 25-840-40(1) states: "Permanent or temporary soil stabilization shall be applied to denuded areas within seven days after final grade is reached on any portion of the site. Temporary soil stabilization shall be applied within seven days to denuded areas that may not be at final grade but will remain dormant for longer than 14 days. Permanent stabilization shall be applied to areas that are to be left dormant for more than one year."

9 VAC 25-840-40(11) states: "Before newly constructed stormwater conveyance channels or pipes are made operational, adequate outlet protection and any required temporary or permanent channel lining shall be installed in both the conveyance channel and receiving channel."

9 VAC 25-870-54(B) states in part: "An erosion and sediment control plan consistent with the requirements of the Virginia Erosion and Sediment Control Law and regulations must be designed and implemented during construction activities."

14. During the March 11, 2019 and April 15, 2019 inspections, it was observed that erosion and sediment control structures and control measures were not maintained or repaired as required.

2014 Permit Part II (E) (1) states in part: "All control measures must be properly maintained in effective operating condition in accordance with good engineering practices and, where applicable, manufacturer specifications."

9 VAC 25-840-60(A) states in part: "All erosion and sediment control structures and systems shall be maintained, inspected and repaired as needed to insure continued performance of their intended function..."

9 VAC 25-870-54(B) states in part: "An erosion and sediment control plan consistent with the requirements of the Virginia Erosion and Sediment Control Law and regulations must be designed and implemented during construction activities."

9 VAC 25-870-95 (L) states: "Land-disturbing activities shall comply with the Virginia Erosion and Sediment Control Law and attendant regulations."

9 VAC 25-840-40(11) states: "Before newly constructed stormwater conveyance channels or pipes are made operational, adequate outlet protection and any required temporary or permanent channel lining shall be installed in both the conveyance channel and receiving channel."

15. During the March 11, 2019 and April 15, 2019 inspections, it was observed that sediment traps were full of sediment with sediment passing through the sediment traps. In addition, silt fence, check dams, conveyance channels, and sediment traps were not installed or maintained in accordance with approved plans.

2014 Permit Part II(E)(1) states in part: "All control measures must be properly maintained in effective operating condition in accordance with good engineering practices and, where applicable, manufacturer specifications."

9 VAC 25-840-60(A) states in part: "All erosion and sediment control structures and systems shall be maintained, inspected and repaired as needed to insure continued performance of their intended function..."

16. During the December 5, 2019 inspection, it was observed that silt fence segments throughout the Site were not spliced together.

2019 Permit Part II(F)(1) states: "All control measures shall be properly maintained in effective operating condition in accordance with good engineering practices and, where applicable, manufacturer specifications. If a site inspection required by Part II G identifies a control measure that is not operating effectively, corrective actions shall be completed as soon as practicable, but no later than seven days after discovery or a longer period as established by the VSMP authority, to maintain the continued effectiveness of the control measures."

9 VAC 25-840-60(A) states: "A. All erosion and sediment control structures and systems shall be maintained, inspected and repaired as needed to insure continued performance of their intended function. A statement describing the maintenance responsibilities of the permittee shall be included in the approved erosion and sediment control plan."

17. During the January 29, 2020 inspection, areas of erosion were observed around temporary check dams in a stabilized conveyance channel.

2019 Permit Part II(B)(2)(c)(5) states in part: "An approved erosion and sediment control plan, "agreement in lieu of a plan," or erosion and sediment control plan prepared in accordance with department-approved annual standards and specifications, implemented to:... Minimize sediment discharges from the site in a manner that addresses (i) the amount, frequency, intensity, and duration of precipitation; (ii) the

nature of resulting stormwater runoff; and (iii) soil characteristics, including the range of soil particle sizes present on the site;...”

2019 Permit Part II(F)(1) ) states: “All control measures shall be properly maintained in effective operating condition in accordance with good engineering practices and, where applicable, manufacturer specifications. If a site inspection required by Part II G identifies a control measure that is not operating effectively, corrective actions shall be completed as soon as practicable, but no later than seven days after discovery or a longer period as established by the VSMP authority, to maintain the continued effectiveness of the control measures.”

9 VAC 25-840-40(11) states: “Before newly constructed stormwater conveyance channels or pipes are made operational, adequate outlet protection and any required temporary or permanent channel lining shall be installed in both the conveyance channel and receiving channel.”

9 VAC 25-840-40(18) states: “All temporary erosion and sediment control measures shall be removed within 30 days after final site stabilization or after the temporary measures are no longer needed, unless otherwise authorized by the VESCP authority. Trapped sediment and the disturbed soil areas resulting from the disposition of temporary measures shall be permanently stabilized to prevent further erosion and sedimentation.”

9 VAC 25-870-54(B) states: “An erosion and sediment control plan consistent with the requirements of the Virginia Erosion and Sediment Control Law and regulations must be designed and implemented during construction activities. Prior to land disturbance, this plan must be approved by either the VESCP authority or the department in accordance with the Virginia Erosion and Sediment Control Law and attendant regulations.”

18. During the January 29, 2020 inspection, denuded sediment trap slopes, multiple sections of undercut silt fence, and clogged outlet protection were observed at the Site.

2019 Permit Part II(F)(1) states: “All control measures shall be properly maintained in effective operating condition in accordance with good engineering practices and, where applicable, manufacturer specifications. If a site inspection required by Part II G identifies a control measure that is not operating effectively, corrective actions shall be completed as soon as practicable, but no later than seven days after discovery or a longer period as established by the VSMP authority, to maintain the continued effectiveness of the control measures.”

9 VAC 25-840-60(A) states: “A. All erosion and sediment control structures and systems shall be maintained, inspected and repaired as needed to insure continued performance of their intended function. A statement describing the maintenance responsibilities of the permittee shall be included in the approved erosion and sediment control plan.”

19. During the September 2, 2020 inspection, areas of denuded soil with developing erosion were observed at the Site.

2019 Permit Part II(F)(1) states: "All control measures shall be properly maintained in effective operating condition in accordance with good engineering practices and, where applicable, manufacturer specifications. If a site inspection required by Part II G identifies a control measure that is not operating effectively, corrective actions shall be completed as soon as practicable, but no later than seven days after discovery or a longer period as established by the VSMP authority, to maintain the continued effectiveness of the control measures."

2019 Permit Part II(B)(2)(c)(8) states in part: "An approved erosion and sediment control plan, "agreement in lieu of a plan," or erosion and sediment control plan prepared in accordance with department-approved annual standards and specifications, implemented to:... Ensure initiation of stabilization activities, as defined in 9VAC25-880-1, of disturbed areas immediately whenever any clearing, grading, excavating, or other land-disturbing activities have permanently ceased on any portion of the site, or temporarily ceased on any portion of the site and will not resume for a period exceeding 14 days..."

2019 Permit Part II(B)(5)(b)(1) states in part: "SWPPP requirements for discharges to nutrient and sediment impaired waters. For discharges to surface waters (i) identified as impaired in the 2016 § 305(b)/303(d) Water Quality Assessment Integrated Report or (ii) with an applicable TMDL wasteload allocation established and approved prior to the term of this general permit for sediment for a sediment-related parameter (i.e., total suspended solids or turbidity) or nutrients (i.e., nitrogen or phosphorus), the operator shall:... Provide clear direction in the SWPPP that... Permanent or temporary soil stabilization shall be applied to denuded areas within seven days after final grade is reached on any portion of the site"

9 VAC 25-840-40(1) states: "Permanent or temporary soil stabilization shall be applied to denuded areas within seven days after final grade is reached on any portion of the site. Temporary soil stabilization shall be applied within seven days to denuded areas that may not be at final grade but will remain dormant for longer than 14 days. Permanent stabilization shall be applied to areas that are to be left dormant for more than one year."

20. During the September 2, 2020 inspection, areas of denuded soil and erosion were observed in conveyance channels at the Site.

9 VAC 25-840-40(11) states: "11. Before newly constructed stormwater conveyance channels or pipes are made operational, adequate outlet protection and any required temporary or permanent channel lining shall be installed in both the conveyance channel and receiving channel."

21. During the September 2, 2020 inspection, sediment traps requiring maintenance with eroding slopes and damaged silt fence allowing sediment to accumulate outside the approved limits of disturbance was observed at the Site.

2019 Permit Part II(F)(1) states: "All control measures shall be properly maintained in effective operating condition in accordance with good engineering practices and, where

applicable, manufacturer specifications. If a site inspection required by Part II G identifies a control measure that is not operating effectively, corrective actions shall be completed as soon as practicable, but no later than seven days after discovery or a longer period as established by the VSMP authority, to maintain the continued effectiveness of the control measures.”

9 VAC 25-840-60(A) states: “A. All erosion and sediment control structures and systems shall be maintained, inspected and repaired as needed to insure continued performance of their intended function. A statement describing the maintenance responsibilities of the permittee shall be included in the approved erosion and sediment control plan.”

22. The Department has not issued coverage under any permit or certificate to Hopson other than coverage under the 2014 Permit and the 2019 Permit.
23. PRO issued a Notice of Violation for the violations noted above as follows: NOV No. 2019-04-PRO-201 issued on June 14, 2019.
24. On July 2, 2019, Department staff met with representatives of Hopson to discuss the violations.
25. Based on the results of the March 11, 2019, April 15 2019, and May 28, 2019 inspections the Board concludes that Hopson violated 9 VAC 25-840-40(1), 9 VAC 25-840-40(11), 9 VAC 25 840-60(A), 9 VAC 25-870-54(B), and 9 VAC 25-870-95(L) and the conditions of the 2014 Permit Parts II(A)(2)(c)(8), II(A)(5)(b)(1), and II (E)(1) as described in paragraphs C9 through 15 of this Order.
26. Based on the results of the December 5, 2019, January 29, 2020, and September 2, 2020 inspections the Board concludes Hopson violated 9 VAC 25-840-40(1), 9 VAC 25-840-40(11), 9 VAC 25-840-40(11), 9 VAC 25-840-60(A), and 9 VAC 25-870-54(B) and the conditions of the 2019 Permit Parts II(B)(2)(c), II(B)(2)(c)(8), II(B)(5)(b)(1), and II(F)(1) as described in paragraphs C16 through 21 of this Order.
27. In order for Hopson to return to compliance, DEQ staff and Hopson have agreed to the Schedule of Compliance, which is incorporated as Appendix A of this Order.

#### **SECTION D: Agreement and Order**

Accordingly, by virtue of the authority granted it in Va. Code §§ 62.1-44.15, 62.1-44.15:25, and 62.1-44.15:48, the Board orders Hopson, and Hopson agrees to:

1. Perform the actions described in Appendix A of this Order; and
2. Pay a civil charge of \$19,113.00 within 30 days of the effective date of the Order in settlement of the violations cited in this Order.

Payment shall be made by check, certified check, money order or cashier's check payable to the "Treasurer of Virginia," and delivered to:

Receipts Control  
Department of Environmental Quality  
Post Office Box 1104  
Richmond, Virginia 23218

Hopson shall include its Federal Employer Identification Number (FEIN) with the civil charge payment and shall indicate that the payment is being made in accordance with the requirements of this Order for deposit into the Virginia Stormwater Management Fund. If the Department has to refer collection of moneys due under this Order to the Department of Law, Hopson shall be liable for attorneys' fees of 30% of the amount outstanding.

#### **SECTION E: Administrative Provisions**

1. The Board may modify, rewrite, or amend this Order with the consent of Hopson for good cause shown by Hopson, or on its own motion pursuant to the Administrative Process Act, Va. Code § 2.2-4000 et seq., after notice and opportunity to be heard.
2. This Order addresses and resolves only those violations specifically identified in Section C of this Order and in NOV No. 2019-04-PRO-201 dated June 14, 2019. This Order shall not preclude the Board or the Director from taking any action authorized by law, including but not limited to: (1) taking any action authorized by law regarding any additional, subsequent, or subsequently discovered violations; (2) seeking subsequent remediation of the facility; or (3) taking subsequent action to enforce the Order.
3. For purposes of this Order and subsequent actions with respect to this Order only, Hopson admits the jurisdictional allegations, findings of fact, and conclusions of law contained herein.
4. Hopson consents to venue in the Circuit Court of the City of Richmond for any civil action taken to enforce the terms of this Order.
5. Hopson declares it has received fair and due process under the Administrative Process Act and the State Water Control Law and it waives the right to any hearing or other administrative proceeding authorized or required by law or regulation, and to any judicial review of any issue of fact or law contained herein. Nothing herein shall be construed as a waiver of the right to any administrative proceeding for, or to judicial review of, any action taken by the Board to modify, rewrite, amend, or enforce this Order.
6. Failure by Hopson to comply with any of the terms of this Order shall constitute a violation of an order of the Board. Nothing herein shall waive the initiation of appropriate

enforcement actions or the issuance of additional orders as appropriate by the Board or the Director as a result of such violations. Nothing herein shall affect appropriate enforcement actions by any other federal, state, or local regulatory authority.

7. If any provision of this Order is found to be unenforceable for any reason, the remainder of the Order shall remain in full force and effect.
8. Hopson shall be responsible for failure to comply with any of the terms and conditions of this Order unless compliance is made impossible by earthquake, flood, other acts of God, war, strike, or such other unforeseeable circumstances beyond its control and not due to a lack of good faith or diligence on its part. Hopson shall demonstrate that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. Hopson shall notify the DEQ Regional Director verbally within 24 hours and in writing within three business days when circumstances are anticipated to occur, are occurring, or have occurred that may delay compliance or cause noncompliance with any requirement of the Order. Such notice shall set forth:
  - a. the reasons for the delay or noncompliance;
  - b. the projected duration of any such delay or noncompliance;
  - c. the measures taken and to be taken to prevent or minimize such delay or noncompliance; and
  - d. the timetable by which such measures will be implemented and the date full compliance will be achieved.

Failure to so notify the Regional Director verbally within 24 hours and in writing within three business days, of learning of any condition above, which the parties intend to assert will result in the impossibility of compliance, shall constitute a waiver of any claim to inability to comply with a requirement of this Order.

9. This Order is binding on the parties hereto and any successors in interest, designees and assigns, jointly and severally.
10. This Order shall become effective upon execution by both the Director or his designee and Hopson. Nevertheless, Hopson agrees to be bound by any compliance date which precedes the effective date of this Order.
11. This Order shall continue in effect until:
  - a. The Director or his designee terminates the Order after Hopson has completed all of the requirements of the Order;

- b. Hopson petitions the Director or his designee to terminate the Order after it has completed all of the requirements of the Order and the Director or his designee approves the termination of the Order; or
- c. the Director or Board terminates the Order in his or its sole discretion upon 30 days' written notice to Hopson.

Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve Hopson from its obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.

- 12. Any plans, reports, schedules or specifications attached hereto or submitted by Hopson and approved by the Department pursuant to this Order are incorporated into this Order. Any non-compliance with such approved documents shall be considered a violation of this Order.
- 13. The undersigned representative of Hopson certifies that he or she is a responsible official or officer authorized to enter into the terms and conditions of this Order and to execute and legally bind Hopson to this document. Any documents to be submitted pursuant to this Order shall also be submitted by a responsible official of Hopson.
- 14. This Order constitutes the entire agreement and understanding of the parties concerning settlement of the violations identified in Section C of this Order, and there are no representations, warranties, covenants, terms or conditions agreed upon between the parties other than those expressed in this Order.
- 15. By its signature below, Hopson voluntarily agrees to the issuance of this Order.

And it is so ORDERED this \_\_\_\_\_ day of \_\_\_\_\_, 2021.

\_\_\_\_\_  
James Golden, Regional Director  
Department of Environmental Quality

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Hopson, L.L.C. voluntarily agrees to the issuance of this Order.

Date: 10/1/21 By: [Signature], MANAGING MEMBER  
(Person) (Title)  
Hopson, L.L.C.

Commonwealth of Virginia  
City/County of Chesterfield

The foregoing document was signed and acknowledged before me this 1 day of  
October, 2021, by Ray Avery IV who is  
Managing Member of Hopson, L.L.C., on behalf of the company.

[Signature]  
Notary Public

#7768757  
Registration No.

My commission expires: 12/31/22

Notary seal:



## **APPENDIX A SCHEDULE OF COMPLIANCE**

1. **Plan and Schedule of Corrective Action**

- a. Within 30 days of the effective date of this Consent Order, Hopson shall address the maintenance of erosion and sediment controls and stabilization of denuded areas as detailed in the September 2, 2020 Site Inspection Report - Request for Corrective Action.
- b. Hopson shall submit a report documenting completion of corrective action, in accordance with the Request for Corrective Action, within 30 days of completion of corrective action.

2. **DEQ Contact**

Unless otherwise specified in this Order, Hopson shall submit all requirements of Appendix A of this Order to:

Matthew Richardson  
Enforcement Specialist  
VA DEQ – Piedmont Regional Office  
4949-A Cox Road, Glen Allen, Virginia 23060  
804-527-5060  
Matthew.Richardson@DEQ.Virginia.gov